

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Crosby & Overton, Inc.
1610 West 17th Street
Long Beach, California 90813

ID No. CAD 982524480

Respondent.

Docket HWCA 2004 0605

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Crosby & Overton (Respondent) enter into this Consent Order and agree as follows:

1. Respondent stored hazardous waste at 8430 Amelia Street, Oakland, California 94621(Site).
2. The Department inspected the Site on August 18, 2004.
3. The Department alleges the following violations:
 - 3.1. The Respondent violated Health and Safety Code section 25189 (a) in that between October 3, 2003 and January 31, 2004 and on June 16, 2004 and January 31, 2005, Respondent intentionally or negligently made a false statement or representation on approximately 418 manifests by identifying and signing as second transporter and on one of the 418 manifests, Respondent signed as second transporter and fourth transporter when Respondent knew it did not have a hazardous waste transporter registration from the Department. 33 of the

approximately 418 manifests which listed Respondent as the second transporter came after Respondent signed an agreement with Consolidated Waste Industries, Inc, that authorized Respondent to sign as Consolidated's agent for the purpose of signing hazardous waste manifests and other shipping documents.

4. A dispute exists between the Department and Respondent regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations. Nor does this Consent Order in any way limit any administrative action the Department may take regarding these violations, including but not limited to use of the violations in any action to deny, suspend, or revoke any permit, registration, or other grant of authorization issued by the Department.

9. Respondent does not admit the violations alleged above, except as follows: Respondent admits the facts alleged above for the purposes of any subsequent action, whether civil, criminal or administrative, brought pursuant to the Hazardous Waste Control Law, Health and Safety Code Section 25100 et seq., or its implementing regulations within five years of the date the first violation occurred. The first date of this violation is October 3, 2003.

SCHEDULE FOR COMPLIANCE

10. Respondent shall comply with the following:

10.1. Respondent shall not transport hazardous waste or sign a uniform hazardous waste manifest with Respondent listed as a transporter or in any other way represent itself or conduct business as though it is a registered transporter unless Respondent obtains a valid registration for the transportation of hazardous waste from the Department.

10.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent simultaneously to:

Ms. Patti Barni
Statewide Compliance Division
700 Heinz Avenue, Suite 200
Berkeley, California 94710

And

Mr. Hernan Gomez
Hazardous Materials Management Program
Oakland Fire Department
1605 Martin Luther King, Jr. Way
Oakland, California 94612

10.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

10.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

10.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this

Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

10.9. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for

a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

10.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

10.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

11. The Department and the Respondent agree to total settlement of \$44,500.00, of which \$12,018.00 is penalty, \$9,122.00 is reimbursement of the Department's cost, \$8,360 for manifest correction fee, for the 418 manifests cited in paragraph 3.1 of this Order, \$10,000 for a Supplemental Environmental Project outlined in paragraph 11.1.2 and \$5,000.00 credit for California Compliance School.

11.1.1 Within 120 days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$29,500 for penalties, cost, and fees described in paragraph 11. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

11.1.2. Within 90 days of the effective date of this Consent Order, Respondent shall send a separate payment in the amount of \$10,000 for the Supplemental Environmental Project to the California Environmental Protection Agencies, Education and the Environment Initiative. The Payment must be made

out to the Environmental Education Account (Fund 8020). This payment shall be sent to:

Mr. Charles Stone
Office of Legal Affairs
Department of Toxic Substances Control
1001 I Street, 23rd floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the checks shall be sent:

To: Ms. Patti Barni
Statewide Compliance Division
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California

11.1.3 Respondent agrees to send the Oakland "Facility Supervisor" and the Oakland "Office Manager" to the California Compliance School Modules I-IV.

Enrollment in the California Compliance School shall occur within 150 days of the effective date of this order. Attendance must be completed and Respondent must submit Certificates of Satisfactory Completion for each employee issued Certificates within 180 days of the effective date of this order. If Respondent fails to submit the certificates as required, the penalty of \$5,000 is due and payable within 185 days of the effective date of this order.

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

11.2. Publicizing Supplemental Environmental Project. If Respondent publicizes the contribution to the Cal/EPA Environmental Education Initiative made pursuant to this Consent Order, Respondent shall state in a prominent manner that the contribution was made as part of the settlement of an enforcement action.

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

12.6. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

Dated: August 4, 2006

Original signed by Ron Daerr

Ron Daerr
Environmental Compliance Manager
Crosby & Overton

Dated: August 4, 2006

Original signed by Patricia Barni for Charlene Williams

Ms. Charlene Williams, Chief
Northern California Branch
Statewide Compliance Division
Department of Toxic Substances Control